



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7**

11201 Renner Boulevard
Lenexa, Kansas 66219

***VIA EMAIL**

Glenn.metcalf@movillelawoffice.com

Mr. Glenn A. Metcalf
Attorney
Metcalf & Beardshear
232 Main Street
Menville, Iowa 51039

Re: In the Matter of S & S Equipment, Inc.
Lawton, Iowa
Invitation to Participate in Pre-Filing Negotiations

Dear Mr. Metcalf:

Title II of the CAA, 42 U.S.C. §§ 7521-7554, and the regulations promulgated thereunder, were enacted to reduce air pollution from mobile sources. In creating the CAA, Congress found, in part, that the increasing use of motor vehicles has resulted in mounting dangers to the public health and welfare. Title II authorizes the EPA to set standards applicable to emissions from a variety of vehicles and engines. The CAA prohibits tampering with emissions controls, as well as manufacturing, selling, or installing aftermarket devices intended to defeat those controls.

As you are aware, on February 24, 2020, the U.S. Environmental Protection Agency Region 7 (the EPA), sent S & S Equipment, Inc. (S & S Equipment) an information request pursuant to Section 208(a) of the CAA, 42 U.S.C. § 7542(a). The purpose of the information request was to determine the compliance of S & S Equipment with Title II of the CAA and the regulations promulgated thereunder. You submitted a response on behalf of S & S Equipment on April 20, 2020. Based on this response and other relevant information, the EPA has determined that S & S Equipment violated the CAA and the EPA's implementing regulations. The alleged violations include the following:

- Eight instances of removing or rendering inoperative an emissions control device or element of design installed on or in a motor vehicle or motor vehicle engine after sale or delivery to the ultimate purchaser, in violation of Sections 203(a)(3)(A) and 213(d) of the CAA, 42 U.S.C. §§ 7522(a)(3)(A) and 7547(d), and 40 C.F.R. § 1068.101(b)(1).
- Eight instances of selling, or offering to sell, or installing any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any emissions control device or element of design installed on or in a motor vehicle or motor vehicle engine, in violation of Sections 203(a)(3)(B) and 213(d) of the CAA, 42 U.S.C. §§ 7522(a)(3)(B) and 7547(d) and 40 C.F.R. § 1068.101(b)(2).



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These violations may result in excess emissions of particulate matter (PM), nitrogen oxides (NO_x), hydrocarbons, and other air pollutants that harm public health. PM, especially fine particulates containing microscopic solids or liquid droplets, can get deep into the lungs and cause serious health problems, including decreased lung function; chronic bronchitis; and aggravated asthma. Additionally, current scientific evidence links short-term NO_x exposures, ranging from 30 minutes to 24 hours, with adverse respiratory effects including airway inflammation in healthy people and increased respiratory symptoms in people with asthma.

It is critical that S & S Equipment cease violating the CAA. The EPA has continuing concerns whether some requirements are being met and would like to discuss them with S & S Equipment. The EPA also believes that these violations are significant enough to warrant the assessment of a civil penalty. Section 205(a) of the CAA, 42 U.S.C. § 7524(a), authorizes civil penalties for violations of CAA § 203 requirements. To be fair and consistent in its assessment of penalties, the EPA uses the Clean Air Act Mobile Source Civil Penalty Policy, dated January 16, 2009, to calculate penalties. A link to this document is included in the Additional Sources of Information enclosure.

By this letter, the EPA is offering S & S Equipment the opportunity to negotiate a fair resolution of this matter before any complaint is filed. A settlement of this matter through your return to full compliance and payment of an appropriate civil penalty would be memorialized in a Consent Agreement and Final Order to be signed by an authorized representative of the company and the EPA. We recognize there may be information relevant to this matter we are not aware of, and the EPA will fully and fairly consider any information S & S Equipment provides that is relevant to the violations. If S & S Equipment believes it does not have the financial ability to pay the proposed penalty and wants the EPA to consider its financial condition, S & S Equipment should notify the EPA during the settlement discussions so we can further discuss the circumstances and determine the appropriate financial documentation to substantiate this claim.

If S & S Equipment is interested in participating in pre-filing negotiations, please contact Kasey Barton, in the Office of Regional Counsel, within **20 calendar days** of receipt of this letter at (913) 551-7874. The EPA generally provides a period of 90 days to reach settlement before considering more formal enforcement options.

Addressing significant noncompliance with environmental laws is important to protect public health and the environment. At the same time, the EPA recognizes that the COVID-19 pandemic may be impacting S & S Equipment's operations and causing hardships to its business. We are open to discussing and considering as part of settlement discussions any circumstances due to the COVID-19 pandemic that the company may be facing.

Your attention to this matter is greatly appreciated. If you have any questions, please do not hesitate to contact Ms. Barton at (913) 551-7874, or Dr. Delia Garcia, Compliance Officer, at (913) 551-7262.

Sincerely,

David Cozad
Director, Enforcement Compliance and Assurance Division

Enc.: Additional Sources of Information

Additional Sources of Information

- Information on CAA Enforcement Policy Guidance and Publications:
<https://www.epa.gov/enforcement/air-enforcement-policy-guidance-and-publications>
- Information on mobile source pollution:
<https://www.epa.gov/mobile-source-pollution>
- Information on CAA Mobile Source Penalty Policy:
https://www.epa.gov/sites/production/files/documents/vehicleengine-penalty-policy_0.pdf
- Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22:
http://www.epa.gov/sites/production/files/2013-10/documents/final-crop-fr_1.pdf
- Information on Small Businesses and Enforcement:
<https://www.epa.gov/compliance/small-business-resources-information-sheet>